

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA, :

Plaintiff, :

Case No. 3:99-CR-086
3:10-CV-406

vs. :

JUDGE WALTER HERBERT RICE

JACK L. CLARK, :

Defendant :

DECISION AND ENTRY ADOPTING THE MAGISTRATE JUDGE'S
REPORTS AND RECOMMENDATIONS (DOCS. ##1245, 1253, 1255) IN
THEIR ENTIRETY; OVERRULING DEFENDANT'S OBJECTIONS
THERE TO (DOCS. ##1250, 1256); OVERRULING WITH PREJUDICE
DEFENDANT'S MOTION TO VACATE SENTENCE PURSUANT TO 28
U.S.C. § 2255 (DOC. #1187); OVERRULING AS MOOT DEFENDANT'S
MOTION TO ALTER/AMEND JUDGMENT UNDER FED. R. CIV. P. 59(e)
AND/OR MOTION TO REOPEN/REINSTATE UNDER FED. R. CIV. P.
60(b) (DOC. #1252); DENYING DEFENDANT'S MOTION FOR
APPOINTED COUNSEL (DOC. #1254); DENYING ANTICIPATED
REQUEST FOR CERTIFICATE OF APPEALABILITY AND MOTION FOR
LEAVE TO PROCEED *IN FORMA PAUPERIS*; TERMINATION ENTRY

Based on the reasoning and citations of authority set forth by United States Magistrate Judge Michael J. Newman, in his Report and Recommendations, filed May 18, 2012 (Doc. #1245), his Supplemental Report and Recommendations, filed July 23, 2012 (Doc. #1253), and his Report and Recommendations, filed August 3, 2012 (Doc. #1255), as well as upon a thorough *de novo* review of this Court's file and the applicable law, this Court:


- Adopts said judicial filings in their entirety;

- Overrules Defendant's objections thereto (Docs. ## 1250, 1256);
- Overrules Defendant's request for an evidentiary hearing;
- Overrules with prejudice Defendant's Motion to Vacate Sentence Pursuant to 28 U.S.C. § 2255 (Doc. #1187); and
- Overrules as moot Defendant's Motion to Alter/Amend Judgment Under Fed. R. Civ. P. 59(e) and/or Motion to Reopen/Reinstate Under Fed. R. Civ. P. 60(b) (Doc. #1252).
- Overrules as moot Defendant's Motion to Have Affidavit Typed (Doc. #1258)

Given that Defendant has not made a substantial showing of the denial of a constitutional right and, further, that the Court's decision herein would not be debatable among reasonable jurists, and because any appeal from this Court's decision would be objectively frivolous, Defendant is denied a certificate of appealability and denied leave to appeal *in forma pauperis*.

Judgment will be entered in favor of Plaintiff and against Defendant. The captioned case is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

Date: September 27, 2012



WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE